

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Mail Stop Patent Application**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450



Prior Application Art Unit: 2851      Prior Application Examiner: D. Esplin

SIR: This is a request for filing a

☒ Continuation    ☐ Continuation-in-Part    ☐ Divisional Application under 37 C.F.R. § 1.53(b)  
of pending prior Application No. 09/923,443 filed August 8, 2001 of Hiroshi NOMURA and  
Kenji KONOMI for EVALUATION MASK, FOCUS MEASURING METHOD AND  
ABERRATION MEASURING METHOD

1.    ☒    Enclosed is a complete copy of the prior application including the oath or Declaration and drawings, if any, as originally filed. I hereby verify that the attached papers are a true copy of prior Application No. 09/923,443 as originally filed on August 8, 2001, which is incorporated herein by reference.
2.    ☐    Enclosed is a substitute specification under 37 C.F.R. § 1.125. The undersigned hereby verifies that no new matter is added in this substitute specification.
3.    ☐    Enclosed is a Request for Non-Publication of Application and Certification Under 35 U.S.C. § 122(b)(2)(B)(i).
4.    ☐    Cancel claims.
5.    ☒    A Preliminary Amendment is enclosed.
6.    ☒    The filing fee is calculated on the basis of the claims existing in the prior application as amended at 4 and 5 above.

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Basic Application Filing Fee					\$750	\$ 750.00
	Number of Claims		Basic	Extra Claims		
Total Claims	21	-	20	1	x \$18	18.00
Independent Claims	3	-	3	0	x \$84	0.00
<input type="checkbox"/> Presentation of Multiple Dep. Claim(s)					+\$280	0.00
Subtotal						\$ 768.00
Reduction by 1/2 if small entity						- 0.00
TOTAL APPLICATION FILING FEE						\$ 768.00

7. ☒ A check in the amount of \$768 to cover the filing fee is enclosed.
8. ☒ The Commissioner is hereby authorized to charge any fees which may be required including fees due under 37 C.F.R. § 1.16 and any other fees due under 37 C.F.R. § 1.17, or credit any overpayment during the pendency of this application to Deposit Account No. 06-0916.
9. ☐ New acceptable drawings are enclosed.
10. ☒ The prior application is assigned of record to: Kabushiki Kaisha Toshiba at Reel 012085/Frame 0690
11. ☒ Priority of Application No. 2000-241480, filed on August 9, 2000 in Japan is claimed under 35 U.S.C. § 119. A certified copy
- ☐ is enclosed or ☒ is on file in the prior application.
12. ☐ Small entity status is appropriate and applies to this application.
13. ☒ The power of attorney in the prior application is to at least one of the following: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Dunner, Reg. No. 19,073; Brian G. Brunsvold, Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Laurence R. Hefter, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,098; Herbert H. Mintz, Reg. No. 26,691; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,609; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 26,331; Bruce C. Zotter, Reg. No. 27,680; Dennis P. O'Reilley, Reg. No. 27,932; Allen M. Sokal, Reg. No. 26,695;

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14. ☒ The power appears in the original declaration of the prior application.
15. ☐ Since the power does not appear in the original declaration, a copy of the power in the prior application is enclosed.
16. ☒ Please address all correspondence to FINNEGAN, HENDERSON, FARABOW, GARRETT and DUNNER, L.L.P., 1300 I Street, N.W., Washington, D.C. 20005-3315, **Customer Number 22,852.**
17. ☐ Recognize as associate attorney \_\_\_\_\_

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18. ☒ Also enclosed is an Information Disclosure Statement and Form  
PTO 1449

PETITION FOR EXTENSION. If any extension of time is necessary for the filing of this application, including any extension in parent Application No. 09/923,443, filed August 8, 2001, for the purpose of maintaining copendency between the parent application and this application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to our Deposit Account No. 06-0916. A duplicate copy of this paper is enclosed for use in charging the deposit account.

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: September 9, 2003

By: Richard V. Burgujian Reg 24,014  
for Reg. No. 31,744

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